

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 15-20652

v.

Hon. George Caram Steeh

COREY BAILEY, D-4

Defendant.

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ORDER DENYING REQUEST FOR COUNSEL (ECF NO. 1881)

Defendant Corey Bailey has submitted a letter to the court, which it will construe as a motion. Bailey seeks the appointment of counsel to assist him in asserting a collateral challenge to his conviction or sentence under 28 U.S.C. § 2255.

The appointment of counsel for postconviction proceedings is a matter of the court's discretion, not a constitutional right. *See Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Lemeshko v. Wrona*, 325 F. Supp.2d 778, 787 (E.D. Mich. 2004) (court may appoint counsel for habeas petitioner "only where the interests of justice or due process so require"); *United States v. Prater*, 2020 WL 2616120, at *2 (E.D. Ky. May 22, 2020) ("There is no constitutional right to counsel in proceedings filed under 18 U.S.C.

§ 3582.”). When a petitioner has not articulated a colorable claim, the appointment of counsel would not serve the interests of justice. *Lemeshko*, 325 F. Supp.2d at 788.

“A prisoner seeking relief under 28 U.S.C. § 2255 must allege either: ‘(1) an error of constitutional magnitude; (2) a sentence imposed outside the statutory limits; or (3) an error of fact or law that was so fundamental as to render the entire proceeding invalid.’” *Short v. United States*, 471 F.3d 686, 691 (6th Cir. 2006) (quoting *Mallett v. United States*, 334 F.3d 491, 496-97 (6th Cir. 2003)). Bailey has not explained the basis for his seeking relief under § 2255, other than stating that he wants “someone who can thoroughly go through my trial transcript and find every aspect of where my counsel was ineffective during trial,” and thus has not articulated a colorable claim. For this reason, the court finds that the appointment of counsel would not be in the interests of justice.

Accordingly, IT IS HEREBY ORDERED that Bailey’s request for counsel (ECF No. 1881) is DENIED.

Dated: January 9, 2023

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on January 9, 2023, by electronic and/or ordinary mail and also on Corey Bailey #50258039, Atwater U.S. Penitentiary, Inmate Mail/Parcels, P.O. Box 019001, Atwater, CA 95301.

s/Brianna Sauve
Deputy Clerk